

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

)
KEVIN TAYLOR,)
)
Petitioner,)
)
v.) Civil Action No. 05-10221-DPW
)
DAVID L. WINN, Warden,)
)
Respondent.)
)

**DEFENDANT'S MOTION TO DISMISS
PETITION FOR WRIT OF HABEAS CORPUS**

As more fully demonstrated in the accompanying Memorandum in Support, the respondent, David L. Winn, Warden for the Federal Medical Center Devens, Ayer, Massachusetts ("FMC Devens"), respectfully requests that this Court dismiss the above-captioned matter pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure as the petitioner has failed to state a claim upon which relief can be granted.

Respectfully submitted,

UNITED STATES OF AMERICA
By its attorney,

MICHAEL J. SULLIVAN
United States Attorney

Dated March 14, 2005 By: /S/ Christopher R. Donato

Christopher R. Donato
Assistant U.S. Attorney
U.S. Attorney's Office
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1 Courthouse Way
Boston, MA 02210
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CERTIFICATE OF SERVICE

I certify that on this day a true copy of the above document was served by first class mail, postage prepaid, upon the *pro se* plaintiff:

Kevin Taylor, Inmate
Federal Registry No. 03421-068
Federal Medical Center Devens
P.O. Box 879
Ayer, MA 01432

Dated: March 14, 2005

/S/ Christopher R. Donato
Christopher R. Donato
Assistant U.S. Attorney

CERTIFICATION PURSUANT TO L.R. 7.1 (A)(2)

Because the *pro se* plaintiff is a prisoner currently incarcerated in a federal correctional facility, counsel for the respondent respectfully requests leave to file this Motion without a 7.1 conference.

Dated: March 14, 2005

/S/ Christopher R. Donato
Christopher R. Donato
Assistant U.S. Attorney